

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CUTBERTO VIRAMONTES, an individual
and resident of Cook County, Illinois, *et al.*,

Plaintiffs,

v.

THE COUNTY OF COOK, a body politic
and corporate, *et al.*,

Defendants.

Case No. 1:21-cv-04595

Assigned Judge: Rebecca R. Pallmeyer

Designated
Magistrate Judge: Susan E. Cox

**DEFENDANTS' RESPONSE TO PLAINTIFFS' RULE 56.1(a)(2)
STATEMENT OF MATERIAL FACTS**

Defendants, the County of Cook, Toni Preckwinkle in her official capacity, Kimberly M. Foxx in her official capacity, and Thomas Dart in his official capacity, by their attorney, Kimberly M. Foxx, State's Attorney of Cook County, and through her Assistants, pursuant to Local Rule 56.1(b)(2), for their Response to Plaintiffs' Statement of Material Facts state as follows:

1. Plaintiff Cutberto Viramontes is a resident of Cook County. Dep. of Cutberto Viramontes at 6:20-22 (Feb. 9, 2022), attached as Exhibit 1.

RESPONSE: Defendants admit.

2. Viramontes presently desires to own a Smith & Wesson M&P 15 rifle, which is banned by the Cook County ordinance challenged here. *Id.* at 52:8–15.

RESPONSE: Defendants admit.

3. Viramontes intends to possess this AR-15 style rifle for self-defense. *Id.* at 52:16–18.

RESPONSE: Defendants admit that Viramontes testified his intended use is mainly self-defense. Plaintiffs' Exhibit 1 at 55:3-7.

4. Plaintiff Christopher Khaya is a resident of Cook County. Dep. of Christopher Khaya at 7:15–16 (Feb. 14, 2022), attached as Exhibit 2.

RESPONSE: Defendants admit.

5. Khaya presently desires to own an IMI Galil semiautomatic rifle, which is banned by the Cook County ordinance challenged here. *Id.* at 79:23–80:10.

RESPONSE: Defendants admit.

6. Khaya intends to possess this rifle for target shooting and other lawful purposes, including self-defense. *Id.* at 82:7–15.

RESPONSE: Defendants admit that Khaya testified that he intends to use this rifle for target shooting and would use it for self-defense if his two other firearms, a rifle and a handgun, were inoperable. Plaintiffs' Exhibit 2 at 82:11-24, 83:1-11.

7. Plaintiff Firearms Policy Coalition, Inc. is a nonprofit organization incorporated under the laws of Delaware, with its principal place of business in Clark County, Nevada. See Decl. of Brandon Combs ¶ 3 (April 21, 2023), attached as Exhibit 3.

RESPONSE: Defendants admit.

8. FPC seeks to defend and promote the People's rights—including the right to keep and bear arms—advance individual liberty, and restore freedom. FPC serves its members and the public through legislative advocacy, grassroots advocacy, litigation and legal efforts, research, education, outreach, and other programs. *Id.*

RESPONSE: Defendants dispute this paragraph to the extent it is argumentative and advances legal argument in violation of Local Rule 56.1(e)(2). Defendants admit FPC engages in legislative and grassroots advocacy, litigation and legal efforts, research, education, outreach, and other programs in furtherance of its view of Second Amendment rights.

9. FPC has members throughout the United States, some of whom reside in Cook County. *Id.* ¶ 4.

RESPONSE: Defendants admit.

10. Plaintiffs Viramontes and Khaya are members of FPC. *Id.* ¶ 5.

RESPONSE: Defendants admit.

11. This case is germane to the core purposes of FPC. *Id.* ¶¶ 6–7.

RESPONSE: Defendants dispute this paragraph to the extent that the cited evidence asserts Plaintiffs have suffered an injury as a result of the laws at issue in this case See Plaintiffs’ Exhibit 3, ¶¶ 6-7.

12. Plaintiff Second Amendment Foundation is a nonprofit educational foundation incorporated under the laws of Washington with its principal place of business in Bellevue, Washington. *See* Decl. of Alan Gottlieb ¶ 3 (April 21, 2023), attached as Exhibit 4.

RESPONSE: Defendants admit.

13. SAF seeks to preserve the effectiveness of the Second Amendment through education, research, publishing, and legal action programs focused on the constitutional right to keep and bear arms and the consequences of gun control. *Id.*

RESPONSE: Defendants dispute this paragraph to the extent it is argumentative and advances legal argument in violation of Local Rule 56.1(e)(2). Defendants admit SAF engages in education, research, publishing, and legal action programs in furtherance of its view of Second Amendment rights.

14. SAF has members throughout the United States, some of whom reside in Cook County. *Id.* ¶ 4.

RESPONSE: Defendants admit.

15. Plaintiffs Viramontes and Khaya are members of SAF. *Id.* ¶ 5.

RESPONSE: Defendants admit.

16. This case is germane to the core purposes of SAF. *Id.* ¶¶ 6–7.

RESPONSE: Defendants dispute this paragraph to the extent that the cited evidence asserts Plaintiffs have suffered an injury as a result of the laws at issue in this case See Plaintiffs’ Exhibit 4, ¶¶ 6-7.

Dated: June 1, 2023

Respectfully Submitted,

KIMBERLY M. FOXX
State’s Attorney of Cook County

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CERTIFICATE OF SERVICE

I, Jessica M. Scheller, hereby certify that on June 1, 2023 I caused a true and correct copy of the Defendants' Response to Plaintiffs' Rule 56.1(a)(2) Statement of Material Facts be sent via e-filing to all counsel of record in accordance with the rules regarding the electronic filing and service of documents.

/s/ Jessica M. Scheller

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